



3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Updated Information Concerning the Atlantic Coast Pipeline Project and Supply Header Project and the Associated Forest Service Land and Resource Management Plan Amendments

AGENCY: Forest Service, USDA.

ACTION: Notice; updating information.

SUMMARY: The USDA Forest Service (Forest Service) is participating as a cooperating agency with the Federal Energy Regulatory Commission (FERC) in the preparation of the Atlantic Coast Pipeline (ACP) and Supply Header Project Environmental Impact Statement (EIS). On January 6, 2017, the Forest Service published in the *Federal Register* (82 FR 1685) a Notice of Availability of the Atlantic Coast Pipeline and Supply Header Project Draft Environmental Impact Statement and the Draft of Amendments to the George Washington and Monongahela National Forests' Land and Resource Management Plans (LRMPs) to allow for the ACP to cross through these National Forests. Since that publication, the Forest Service determined there is a need to disclose the following: new information relating to the proposed LRMP amendments; a change in the Responsible Officials for the amendments; and the substantive provisions in the planning regulations that are likely to be directly related to the proposed amendments. In addition, a proposed change to one of the LRMP

amendments will result in a change to the administrative review procedures as outlined in the January 6, 2017 *Federal Register* Notice.

FOR FURTHER INFORMATION CONTACT: Information about the ACP Project is available from the FERC's Office of External Affairs at 866-208-FERC (3372), or on the FERC Web site (www.ferc.gov). On the FERC's website, go to "Documents & Filings," click on the "eLibrary" link, click on "General Search" and enter the docket number CP15-554. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov, or toll free at 866-208-3676, or for TTY, contact 202-502-8659. The eLibrary link also provides access to the texts of formal documents issued by the FERC such as orders, notices, and rulemakings.

For information related specifically to the new information provided in this Notice, please contact Karen Overcash, Forest Planner, George Washington and Jefferson National Forests, at 540-265-5175 or kovercash@fs.fed.us.

SUPPLEMENTARY INFORMATION:

Background

This Notice is specific to the Forest Service. The Atlantic Coast Pipeline route would cross 5.1 miles of lands managed by the Monongahela National Forest (MNF), in Pocahontas County, West Virginia and 15.9 miles of lands managed by the George Washington National Forest (GWNF), in Highland, Bath, and Augusta Counties, Virginia. The Supply Header Project would not affect the Monongahela or George Washington National Forests.

The FERC is the NEPA Lead Federal Agency for the environmental analysis of the construction and operation of the proposed ACP and Supply Header Project. The Forest Service is the Federal agency responsible for authorizing this use and issuing special use permits for natural gas pipelines across National Forest System (NFS) lands under its jurisdiction. As a condition of issuing a Special Use Permit (SUP) for ACP to construct, operate, maintain, and eventually decommission a natural gas transmission pipeline that crosses NFS lands, the Forest Service would include such terms and conditions deemed necessary to protect Federal property and otherwise protect the public interest.

The Forest Service intends to adopt FERC's EIS for its decision to authorize the construction and operation of ACP, along with the necessary project-specific amendments to the LRMPs, if the analysis provides sufficient evidence to support those decisions and the Forest Service is satisfied that its comments and suggestions have been addressed.

Planning Rule Requirements for LRMP Amendments

On December 15, 2016 the Department of Agriculture Under Secretary for Natural Resources and Environment issued a final rule that amended the 36 CFR 219 regulations pertaining to National Forest System Land Management Planning (the planning rule) (81 FR 90723, 90737). The amendment to the 219 planning rule clarified the Department's direction for amending LRMPs. The Department also added a requirement for amending a plan for the responsible official to provide notice "about which substantive requirements of §§ 219.8 through 219.11 are likely to be directly related to the amendment" (36 CFR 219.13(b)(2), 81 FR at 90738). Whether a rule

provision is directly related to an amendment is determined by any one of the following: the purpose for the amendment, a beneficial effect of the amendment, a substantial adverse effect of the amendment, or a lessening of plan protections by the amendment.

The following descriptions of the proposed or potential LRMP amendments that are anticipated to be addressed in the Final EIS include a description of the “substantive requirements of §§ 219.8 through 219.11” likely to be directly related to each amendment.

New Information for LRMP Amendments and Relationship to Substantive Requirements in the Planning Rule

The FERC’s Draft EIS for the ACP and the Notice of Availability published in the *Federal Register* on January 6, 2017 included the consideration of a Forest Service authorization for construction and operation of the ACP across NFS lands and the associated Forest Service LRMP amendments that would be needed to make the project consistent with the respective LRMPs if the Forest Service were to approve the authorization (36 CFR 219.15).

The Draft EIS identified “project-specific plan amendments” that would be needed for the construction and operation of the ACP that otherwise could not, or potentially could not, meet certain standards in the MNF or GWNF LRMPs. These amendments are considered project-specific amendments because they would apply only to ACP and would not change LRMP requirements for other projects.

Since the Draft EIS, the Forest Service has reconsidered whether a project-specific amendment would still be necessary to ensure the ACP was consistent with some of the LRMP standards, has identified the need for a project-specific amendment with

respect to several other LRMP standards, and has determined that a management prescription reallocation would not be necessary to approve the project.

Monongahela National Forest

The following potential amendment to the MNF LRMP would be a project-specific amendment, applicable only to the ACP Project. This amendment would not change the applicability of LRMP requirements for other, future projects.

Potential Amendment to the MNF LRMP: The MNF LRMP may need to be amended to allow for the construction of the Atlantic Coast Pipeline to exceed two LRMP standards that were developed for the protection of soils, specifically Forestwide Standards SW06 and SW07 which are:

Standard SW06: Severe rutting resulting from management activities shall be confined to less than 5 percent of an activity area.

Standard SW07: Use of wheeled and/or tracked motorized equipment may be limited on soil types that include the following soil/site area conditions: a) Steep Slopes (40 to 50 percent), b) Very Steep Slopes (more than 50 percent), c) Susceptible to Landslides, d) Soils Commonly Wet at or near the Surface during a Considerable Part of the Year, or Soils Highly Susceptible to Compaction.

The amendment would provide an exception from these standards for the ACP Project and include specific mitigation measures and project design requirements for the project.

The 36 CFR 219 planning rule requirements likely to be directly related to this proposed amendment are:

§ 219.8(a)(2)(ii) – “[The plan must include plan components to maintain or restore] Soils and soil productivity, including guidance to reduce soil erosion and sedimentation,” and

§ 219.10(a)(3) – “[The responsible official shall consider] Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.”

If this potential amendment is determined to be “directly related” to the substantive rule requirements, the Responsible Official must apply those requirements within the scope and scale of the amendment and, if necessary, make adjustments to the amendment to meet these rule requirements (36 CFR 219.13 (b)(5) and (6)).

George Washington National Forest

The following proposed amendment to the GWNF LRMP would be a project-specific amendment, applicable only to the ACP Project. This amendment would not change the applicability of LRMP requirements for other, future projects.

Proposed Amendment, Part 1: In the Draft EIS for the ACP and the January 6, 2017 *Federal Register* Notice of Availability, the original proposed amendment, part 1 was to amend the LRMP to reallocate 102.3 acres to Management Prescription 5C-Designated Utility Corridors from Management Prescriptions 7E1-Dispersed Recreation Areas (7 acres) and 13-Mosaics of Habitat (95 acres). Management Prescription 11-Riparian Corridors would have remained embedded within the new Management Prescription 5C area. The basis for this proposed amendment was from Forestwide Standards FW-243 and FW-244:

Standard FW-243: Develop and use existing corridors and sites to their greatest potential in order to reduce the need for additional commitment of lands for these uses. When feasible, expansion of existing corridors and sites is preferable to designating new sites.

Standard FW-244: Following evaluation of the above criteria, decisions for new authorizations outside of existing corridors and designated communication sites will include an amendment to the Forest Plan designating them as Management Prescription Area 5B or 5C.

This Management Prescription (Rx) allocation change would change management direction for any future activities within the designated Rx 5C corridor, and would not have been considered a project-specific amendment.

However, upon further examination, the Forest Service has determined it would be preferable to not reallocate the ACP operational corridor to a Management Prescription that would encourage future co-location opportunities. Instead the proposal is to now amend the LRMP with a project-specific amendment that would exempt the ACP Project from the requirements in Forestwide Standards FW-243 and FW-244. With this change, the 53.5 foot wide right-of-way needed for the ACP would remain within the existing management prescription areas (of Rx 4A-Appalachian National Scenic Trail Corridor, Rx 7E1-Dispersed Recreation Areas; Rx 11- Riparian Corridors; and Rx 13 – Mosaics of Wildlife Habitat).

This change from a plan amendment affecting future management to a project-specific amendment would also change the administrative review process for this proposed amendment from the 36 CFR 219, Subpart B procedures as described in the

January 6, 2017 *Federal Register* Notice of Availability, to the 36 CFR 218 administrative review process that applies to the other proposed project-specific amendments for this project.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(a)(3) – “[The responsible official shall consider] “Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.”

Proposed Amendment, Part 2: The Forest Service proposes to amend Forestwide Standards FW-5, FW-8, FW-16, FW-17 and Management Area Prescription Standard 11-003 to allow for the construction of the Atlantic Coast Pipeline to exceed these soil and riparian corridor protection measures. Standards FW-8 and 11-003 were not originally identified in the Draft EIS for the ACP as standards that may need to be amended. These standards are:

Standard FW-5: On all soils dedicated to growing vegetation, the organic layers, topsoil and root mat will be left in place over at least 85% of the activity area and revegetation is accomplished within 5 years.

Standard FW-8: Water saturated soils in areas expected to produce biomass should not receive vehicle traffic or livestock trampling to prevent excessive soil compaction.

Standard FW-16: Management activities expose no more than 10% mineral soil in the channeled ephemeral zone.

Standard FW-17: In channeled ephemeral zones, up to 50% of the basal area may be removed down to a minimum basal area of 50 square feet per acre. Removal of additional basal area is allowed on a case-by-case basis when needed to benefit riparian dependent resources.

Standard 11-003: Management activities expose no more than 10 percent mineral soil within the project riparian corridor.

The amendment would provide an exception from these standards for the ACP Project and include specific mitigation measures and project design requirements for the project.

The 36 CFR 219 planning rule requirements likely to be directly related to amending the above standards are:

§ 219.8(a)(2)(ii) – “[The plan must include plan components to maintain or restore] Soils and soil productivity, including guidance to reduce soil erosion and sedimentation;”

§ 219.8(a)(2)(iv) – “[The plan must include plan components to maintain or restore] Water resources in the plan area, including lakes, streams, and wetlands; ... and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability);” and

§ 219.8(a)(3)(i) – The plan must include plan components “to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity.”

The Draft EIS for the ACP and the January 6, 2017 *Federal Register* Notice of Availability had also identified that Forestwide Standard FW-15 and Management Prescription Area Standard 11-019 may need to be amended. However, a further review of these standards has determined that the proposed pipeline project can be made consistent with these standards and an amendment to these two standards will not be needed. These standards are:

Standard FW-15: Motorized vehicles are restricted in the channeled ephemeral zone to designated crossings. Motorized vehicles may only be allowed on a case by case basis, after site specific analysis, in the channeled ephemeral zone outside of designated crossings.

Standard 11-019: Tree removals from the core of the riparian corridor may only take place if needed to: enhance the recovery of the diversity and complexity of vegetation native to the site; rehabilitate both natural and human-caused disturbances; provide habitat improvements for aquatic or riparian species, or threatened, endangered, sensitive, and locally rare species; reduce fuel buildup; provide for public safety; for approved facility construction/renovation; or as allowed in standards 11-015 or 11- 024.

Proposed Amendment, Part 3: The GWNF LRMP would be amended to allow the Atlantic Coast Pipeline to be exempt from Management Prescription Area Standard 4A-025 and cross the Appalachian National Scenic Trail (ANST) in Augusta County, Virginia. This standard is:

Standard 4A-025: Locate new public utilities and rights-of-way in areas of this management prescription area where major impacts already exist. Limit linear utilities and rights-of-way to a single crossing of the prescription area, per project.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(b)(1)(vi) – “[The plan must include plan components to provide for] Appropriate management of other designated areas or recommended designated areas in the plan area.”

Potential Amendment, Part 4: The GWNF LRMP may need to be amended to allow removal of old growth trees within the construction zone of the Atlantic Coast Pipeline. The forestwide standard in the LRMP that may need to be amended is FW-85, which states that any stands identified as meeting the criteria for Dry Mesic Oak or Dry & Dry-Mesic Oak-Pine old growth forest communities may be suitable for timber harvest and any decision to harvest such stands would be made after consideration of their contribution to the distribution and abundance of these old growth forest community types. Stands identified as meeting the age criteria for any of the other old growth community types found on the forest would be unsuitable for timber production.

A determination on the need for this amendment will be made following completion of an old growth inventory of the stands within the ACP Project’s construction zone.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment, if needed, is:

§ 219.11(c) – “The plan may include plan components to allow for timber harvest for purposes other than timber production ... or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan...”

Potential Amendment, Part 5: The GWNF may need to amend Management Area Prescription Standard 2C3-015 to allow for a major reconstruction of a National Forest System Road within Management Prescription Area 2C3 for the purposes of providing access for pipeline construction. This standard is:

Standard 2C3-015: Allow road construction or reconstruction to improve recreational access, improve soil and water, to salvage timber, or to protect property or public safety.

This potential amendment is contingent on the final location of access roads needed for the pipeline.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment, if needed, is:

§ 219.10(b)(v) – “Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.”

Potential Amendment, Part 6: The GWNF may need to amend Forestwide Standard FW-182 to allow for the construction of the Atlantic Coast Pipeline to deviate from the Scenic Integrity Objectives (SIOs) established in the LRMP. This standard is:

Standard FW-182: The Forest SIOs are met for all new projects (including special uses). Existing conditions may not currently meet the assigned SIO.

The 36 CFR 219 planning rule requirement likely to be directly related to this part of the amendment is:

§ 219.10(b)(i) – “[The plan must include plan components to provide for]
“Sustainable recreation; ... and scenic character.”

If any of the six parts of the proposed amendment to the GWNF LRMP described above are determined to be “directly related” to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13 (b)(5) and (6)).

Administrative Review of Plan Amendment Decisions

The Forest Service’s January 6, 2017 Notice of Availability in the *Federal Register* indicated that following the issuance of FERC’s Final EIS, the Forest Service would prepare separate records of decision for the authorization to construct and operate the ACP and for the plan amendment decisions. However, the Regional Foresters now intend to sign one record of decision for both the authorizations to construct and operate the pipeline on the MNF and GWNF and for the project-specific plan amendment decisions to the MNF LRMP and the GWNF LRMP. Two Regional Foresters are involved with the ACP Project since the pipeline will cross both the MNF, which is in the Eastern Region of the Forest Service, and the GWNF, which is in the Southern Region of the Forest Service. Doing so will simplify the decisionmaking process for internal Forest Service administrative purposes as well as for the public’s right to participate in the

predecisional review process. A Forest Service decision to authorize the construction and operation of the ACP will be subject to the Forest Service predecisional administrative review procedures established in 36 CFR 218. At the same time, project-specific amendments to the MNF and GWNF LRMPs will also be subject to the administrative review procedures under the 36 CFR 218 regulations (per 36 CFR 219.59(b)).

Since the Regional Foresters will be the Responsible Officials for both the decisions to authorize the construction and operation of the ACP as well as the LRMP amendments, the Reviewing Official for all of the decisions will be the National Forest System Associate Deputy Chief (36 CFR 218.3(a)).

RESPONSIBLE OFFICIALS FOR FOREST SERVICE AUTHORIZATIONS TO CONSTRUCT AND OPERATE THE ATLANTIC COAST PIPELINE: The Regional Forester Eastern Region for NFS lands on the MNF and the Regional Forester Southern Region for NFS lands on the GWNF are the Responsible Officials. (Note that Forest Service Manual 2704.32 provides that the Regional Forester has authority to issue special use authorizations for pipelines 24 inches or more in diameter, and may not delegate that authority to a lower-level official.)

RESPONSIBLE OFFICIALS FOR FOREST SERVICE LRMP AMENDMENTS:

The January 6, 2017 *Federal Register* Notice of Availability had identified the Forest Supervisor for the Monongahela National Forest and the Forest Supervisor for the George Washington and Jefferson National Forests as the Responsible Officials for the MNF LRMP Amendment and the GWNF LRMP Amendment, respectively. However, since the Regional Foresters for the Eastern and Southern Region will be the Responsible Officials for the decision to authorize the construction and operation of ACP, in the

interest of administrative efficiencies as well as to simplify the administrative review process for the public, the Responsible Officials for the LRMP Amendments will now be the Regional Forester Eastern Region for the MNF LRMP Amendment and the Regional Forester Southern Region for the GWNF LRMP Amendment.

Dated: May 10, 2017.

Robert M. Harper,
Acting Associate Deputy Chief,
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